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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,438	07/08/2003	Patricia Ann Jakubik	RSW920030078US1	7454
36736	7590	07/13/2007	EXAMINER	
DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			FRINK, JOHN MOORE	
		ART UNIT		PAPER NUMBER
		2142		
		MAIL DATE		DELIVERY MODE
		07/13/2007		PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Interview Summary	Application No.	Applicant(s)	
	10/615,438	JAKUBIK ET AL.	
	Examiner	Art Unit	
	John M. Frink	2142	

All participants (applicant, applicant's representative, PTO personnel):

(1) John M. Frink. (3) _____.

(2) Kevin S. Afghani. (4) _____.

Date of Interview: 7/3/2007.

Type: a) Telephonic b) Video Conference
c) Personal [copy given to: 1) applicant 2) applicant's representative]

Exhibit shown or demonstration conducted: d) Yes e) No.
If Yes, brief description: _____.

Claim(s) discussed: 1.

Identification of prior art discussed: _____.

Agreement with respect to the claims f) was reached. g) was not reached. h) N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner informed Applicant that he does not have signatory authority, and that no agreement regarding patentability could be made over the phone, but that if an interview was desired with Examiner's supervisor after the present interview, it could be scheduled. Proposed Claim 1 was discussed in regards to applying Milo in view of Brendel and Milo in view of Levay. Examiner noted specifically that he feels the 'responsive to the percentage of discarded packets' aspect of Proposed Claim 1 will require further search..

**Yee &
Associates, P.C.**

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DRAFT

FACSIMILE COVER SHEET

To: Commissioner for Patents for Examiner John Moore Frink Group Art Unit 2142	Facsimile No. 571-273-9686
From: Joyce K. Stafford Legal Assistant to Kevin S. Afghani	No. of Pages Including Cover Sheet: 4
Enclosed herewith: <ul style="list-style-type: none">• Applicant Initiated Interview Request Form (PTOL-413A); and• Agenda for Telephone Interview.	
Re: Application Serial No. 10/615,438 Attorney Docket No. RSW920030078US1	
Date: Friday, June 29, 2007	
Please contact us at (972) 385-8777 if you do not receive all pages indicated above or experience any difficulty in receiving this facsimile.	<i>This Facsimile is Intended only for the use of the addressee and, if the addressee is a client or their agent, contains privileged and confidential information. If you are not the intended recipient of this facsimile, you have received this facsimile inadvertently and in error. Any review, dissemination, distribution, or copying is strictly prohibited. If you received this facsimile in error, please notify us by telephone and return the facsimile to us immediately.</i>

**PLEASE CONFIRM RECEIPT OF THIS TRANSMISSION BY
FAXING A CONFIRMATION TO 972-385-7766.**

PTOL-413A (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Applicant Initiated Interview Request Form

Application No.: 10/615,438 First Named Applicant: Jakubik et al.
 Examiner: John Moore Frink Art Unit: 2142 Status of Application: Response to Office Action

Tentative Participants:

(1) John Moore Frink (2) Kevin S. Afghani
 (3) _____ (4) _____

Proposed Date of Interview: TBD Proposed Time: _____ (AM/PM)

Type of Interview Requested:

(1) Telephonic (2) Personal (3) Video Conference

Exhibit To Be Shown or Demonstrated: YES NO
 If yes, provide brief description: _____

Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>rej 103</u>	<u>claim 1</u>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

Brief Description of Arguments to be Presented:

see attached agenda!

An interview was conducted on the above-identified application on _____.
 NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

Applicant/Applicant's Representative Signature

Kevin S. Afghani

Examiner/SPE Signature

Typed/Printed Name of Applicant or Representative
59,168

Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Jakubik et al. §
§
§
Serial No.: 10/615,438 § Group Art Unit: 2142
§
Filed: July 8, 2003 § Examiner: John Moore Frink
§
For: Technique of Detecting Denial of Service Attacks § Attorney Docket No.: RSW920030078US1
§
§

AGENDA FOR TELEPHONE INTERVIEW

Sir:

Please consider the following proposed amendment and topics of discussion for our interview:

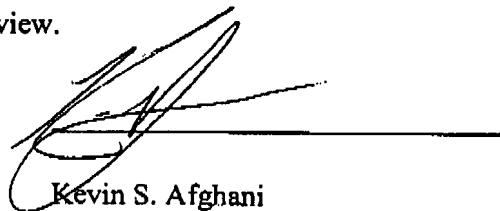
1. (Proposed) A method of detecting a denial of service attack at a network server, comprising:
~~the steps of~~
counting [[the]] a number of inbound packets and [[the]] a number of discarded packets [[X]] in a specified interval,
responsive to [[if]] the number of discarded packets [[X]] in the specified interval [[exceeds]] exceeding a specified minimum X(MIN),
[[then]] calculating [[the]] a percentage of discarded packets, R=X
wherein the percentage of discarded packets is the number of discarded packets divided by the number of inbound packets, and
responsive to the percentage of discarded packets exceeding if R exceeds a specified threshold, [[then]] setting a denial of service event marker.

Milo and Brendel, alone or in combination, do not teach or suggest all the features of proposed claim 1. Specifically, neither *Milo* nor *Brendel* teach or suggest (1) the feature of calculating a percentage of discarded packets, wherein the percentage of discarded packets is the number of discarded packets divided by the number of inbound packets, (2) the “responsive to” feature in the feature of responsive to the number of discarded packets in the specified interval exceeding a specified minimum, calculating a percentage of discarded packets, wherein the percentage of discarded packets is the number of discarded packets divided by the number of inbound packets, (3) the feature of

responsive to the percentage of discarded packets exceeding a specified threshold, setting a denial of service event marker, and (4) the feature of counting a number of inbound packets in a specified interval.

In addition, *Milo* and *Levay*, alone or in combination, do not teach or suggest all the features of proposed claim 1. Specifically, neither *Milo* nor *Levay* teach or suggest (1) the "responsive to" feature in the feature of responsive to the number of discarded packets in the specified interval exceeding a specified minimum, calculating a percentage of discarded packets, wherein the percentage of discarded packets is the number of discarded packets divided by the number of inbound packets, (2) the feature of responsive to the percentage of discarded packets exceeding a specified threshold, setting a denial of service event marker, and (3) the feature of counting a number of inbound packets in a specified interval.

The Examiner is invited to call at the below-listed telephone number to confirm or reschedule the requested telephone interview.



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